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OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Covered by *C-612*  
*where conflicts*

The Opinion  
No. *0-681*

Honorable R. C. Wilson  
County Auditor  
Gray County  
Pampa, Texas

Dear Sir:

Opinion No. 0-4269  
Re: Will fines from "driving while intoxicated" cases now be credited to the general fund or will disposition be governed by Article 1628, Vernon's Annotated Civil Statutes?

Your letter of recent date requesting an opinion of this department on the above stated question reads in part as follows:

"Please furnish us with copy of your opinion No. 0-681, dated July 12, 1959.

"It is our understanding that this opinion was delivered while cases of 'driving while intoxicated' were classed as felonies. Since such cases are now misdemeanors, will fines from such cases be credited to the general fund or will disposition be governed by Article No. 1628 RCS."

Article 802, Vernon's Annotated Penal Code, as amended by House Bill No. 73, Acts of the 47th Legislature, 1941, reads as follows:

"Any person who drives or operates an automobile or any other motor vehicle upon any public road or highway in this State, or upon any street or alley within the limits of an incorporated city, town or village, while such person is intoxicated or under the influence of intoxicating liquor, shall be guilty of a misdemeanor, and upon conviction, shall be punished by confinement in the County Jail for not less than ten (10) days

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nor more than two (2) years, or by a fine of not less than Fifty Dollars (\$50) nor more than Five Hundred Dollars (\$500); or by both such fine and imprisonment."

Article 949, Vernon's Annotated Code of Criminal Procedure, reads as follows:

"Money collected by an officer upon recognizances, bail bonds and other obligations recovered upon in the name of the State under any provision of this Code, and all fines, forfeitures, judgments and jury fees, collected under any provision of this Code, shall forthwith be paid over by the officers collecting the same to the county treasurer of the proper county, after first deducting therefrom the legal fees and commissions for collecting the same."

Article 6700, Vernon's Annotated Civil Statutes, reads as follows:

"Fines collected for violations of any highway law as set forth in Chapter 11 of Title 13 of the Penal Code, shall be used by the municipality or the counties in which the same are assessed and to which the same are payable, in the construction and maintenance of roads, bridges and culverts therein, and for the enforcement of the traffic laws regulating the use of the public highways by motor vehicles and motorcycles, and to help defray the expense of county traffic officers."

Article 1626, Vernon's Annotated Civil Statutes, provides:

"Claims against the county shall be registered in three classes, as follows:

"1. All jury scrip and scrip issued for feeding jurors.

"2. All scrip issued under the provisions of the road law or for work done on roads and bridges.

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"3. All the general indebtedness of the county, including feeding and guarding prisoners, and paupers' claims."

Article 1628, Vernon's Annotated Civil Statutes, provides in part:

"The funds received by the county treasurer shall be classed as follows, and shall be appropriated, respectively, to the payment of all claims registered in the first, second and third classes:

". . .

"2. All money received under any of the provisions of the road and bridge law, including the penalties recovered from railroads for failing to repair crossings, and all fines and forfeitures.

". . ."

Section 2 of Article 1628 places all money mentioned therein in class two of Article 1626. Therefore, you are respectfully advised that it is the opinion of this department that money obtained for fines in cases under Article 802, Vernon's Annotated Penal Code, should be paid to the county treasurer and placed in the road and bridge fund.

Our opinion No. O-3092 supports the conclusion reached in this opinion, and we enclose a copy of the same for your information.

It is stated in our opinion No. O-681, among other things:

". . . the fine should be deposited in the General Fund of the county to be expended for the purposes as enumerated in Article 6700, T. C. S."

The above quoted provision of opinion No. O-681, supra, should read as follows:

"The fine should be deposited in the road and bridge fund of the county to be expended for the purposes as enumerated in Article 6700, T. C. S."

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Therefore, opinion No. C-681 is amended to this extent. We enclose a copy of said opinion.

Trusting that the foregoing fully answers your inquiry, we are

Yours very truly

ATTORNEY GENERAL OF TEXAS.

APPROVED DEC 30 1941  
*Brown Miller*  
FIRST ASSISTANT  
ATTORNEY GENERAL

By *Ardell Williams*  
Ardell Williams  
Assistant

AW:GO

ENCLOSURE

RECEIVED  
OPINION  
COMMITTEE  
BY *BWB*  
CHAIRMAN